

TOWN OF WINCHENDON



Zoning Board of Appeals

Telephone (978)-297-5419

Public Hearing/Regular Meeting

April 17, 2024

Town Hall 2nd Floor Auditorium
109 Front Street, Winchendon MA 01475

Present: Chair Cynthia Carvill, Rob Bushay, Richard Stancombe, Renee Tambling, Christine Miller,
Alternate: Richard Morin Jr.,
Nicole Roberts- Planning & Land Use Coordinator

Materials: Notice of Public Hearing April 17, 2024
Minutes- 2/28/24

7:05PM: Chair C. Carvill called the meeting to order.

Announcements: None.

Public Comment: None.

Minutes: 2/28/24

Rob Bushay motioned to accept the 2/28/24 minutes, 2nd by Christine Miller.

Bushay (Y) Miller (Y) Stancombe (Y) Tambling (Y) Carvill (Y) 5-0

New Public Hearing: James and Jennifer Hardy- 6 Second Street, Assessors Map M7, Parcel 3. Variance request and Special Permit to allow increase of square footage of a pre-existing non-conforming dwelling located within the 10' side setback per sections 6.2.3 and 7.2 of the Winchendon Zoning Bylaws. Said property is in a R40- Suburban Residential in the Lake Monomonic Overlay District.

R.Bushay read the public hearing notice. C. Carvill opened the hearing. James Hardy was sworn in. No board members had any conflicts with the hearing, and all 5 regular board members were present.

James Hardy updated the members on the changes. After completing their site visit, they reduced the back by 4ft and the size of the garage as discussed. He provided the overlay as requested with the existing impervious view versus the proposed impervious areas of the site. The existing finished basement was not included on the plans, it measured 20x32, but they recently had a flood and is currently gutted out.

Renee Tambling had a few questions regarding the plans, stating there were some inconsistencies. She mentioned there was an existing covered porch on the plans, and it seems as if it is staying the same size, but then the new plan shows a different size. J. Hardy confirmed the existing 12x16 porch is staying the same, but the 24x30 rear deck is coming down. R. Tambling pointed out it shows 10x16. Another area was the square footage above the garage, one plan shows 26 ft, the other shows 28. J. Hardy confirmed that should be 26ft. The plans were shown on the screen for the members and applicant to review and clarify.

The plans show the proposed first floor square footage is 1152 and the 2nd floor is 954, totaling 2106 sq. ft. The current square footage is 1792. There was discussion regarding the discrepancies in the plans and what was considered under square footage. The applicant agreed to provide as-built drawings. The board has always considered use of the land in the calculations, which would include the existing decks that are going to be removed, and can be counted towards the allowed 50% increase. When calculating the use of the land, the proposal actually decreases the footprint. In summary, the proposal includes omitting the 2 driveways in the front and adding a driveway on the side to meet up with the garage doors, removal of outbuilding #2, demolishing outbuilding #1- the location of the new two car garage with master above, removal of deck #2 and rear deck off of the house. The front porch is 4x6 and the rear porch is 12x16.

After calculating the use of the land, the existing use is 4077 sq. ft. The proposed use of the land would be 4486 sq. ft.

Nick Semenza from 416 Monomonac Rd. West came forward and was sworn in. He stated he was a direct abutter to the property and shares about 200 ft of lot line with the applicant. He wanted to express his approval with the project, mentioned that the renovation would improve the neighborhood. He has lived there for 30+ years and stated the current house has been an eyesore and the project would be a huge improvement.

C. Carvill proposed to close the public part of the hearing and discuss the matter with the board member R. Bushay motioned to close the hearing, 2nd by C. Miller.

Bushay (Y) Miller (Y) Stancombe (Y) Tambling (Y) Carvill (Y) 5-0

C. Carvill wanted to clarify these calculations are based on the actual use of the land of a preexisting non conforming lot. It would be in harmony with the neighborhood, with a verbal approval of a direct abutter. It would be a decrease in the footprint and further from the lake, which is a benefit for the land.

R. Tambling motioned to approve with the concessions that the board put into acceptance: no additional outbuildings or structures built on the property, the building must conform to the proposed and clarified calculations, and the applicant to provide as-built drawings of the foundation with calculations provided by the building inspector, 2nd by R. Bushay.

Bushay (Y) Miller (Y) Stancombe (Y) Tambling (Y) Carvill (Y) 5-0

Public Hearing: Continued from 3/20/24- Civil & Environmental Consultants, Inc. for property located at River Street, one by 580 River Street, LLC. Assessors Map 4, Parcels 61, 108, 109 and Map 4C Parcel Special Permit Renewal and Modification to the existing special permit to renew the existing permit to continue the pre-existing non-conforming earth removal operation. Also request for increase of allowed hauling vehicle trips per day from 64 to 75.

Jarrett Everton, Director of environmental services for W.L. French, was sworn in by C. Carvill. He had some updates for the board since the last hearing. The drive has been paved past the wheel wash which should end any tracking issues they have out there. They have installed a second wheel wash as a backup in case one goes down. The restoration of the trees in the quarry area has been completed for the conservation. The entire property boundary to the north side of the driveway has been staked in the field. Everything that was requested was completed.

Nicole Roberts stated it was brought to her attention from an abutter that on the special permit there was language indicating if there was a cease of operation of 2 years it would cause the permit to be null and void, but there is no record indicating any cease of operation. It was requested to file a permit when French bought it from Mabardy but there was no record of a permit changing it to French's name. J. Everton clarified that Mabardy changed it to 580 LLC and French purchased 580 LLC. There was no cease of operation. The use of the operation goes with the land, and the special permit is granted to a specific business/owner. Since French purchased 580 LLC, the use and special permit are valid.

An abutter requested to have where River St and Main St meet swept. J. Everton was willing to do so and would discuss with the DPW director. He stated the tracking issue should now be resolved from having the drive paved on Monday. In regards to the dust complaints, they have implemented a dust mitigation plan. They have installed a weather station on top of the scale house that monitors wind speed. When wind speed goes above 20 they apply water to the site to keep the dust levels down.

The Board of Selectmen area of purview is in regards to the capping of the landfill. At one time, both matters were discussed together but they are two separate businesses.

It was requested to increase the allowed number of truck loads from 64 to 75. They typically do not have that many on a daily basis, but during the busy days, it would benefit them to increase the number allowed to finish the project sooner. The hours of operation are 7:30AM to 4:30PM.

The dust mitigation plan is posted on the town website. The 100 ft buffer zone was surveyed and staked. A 20 ft. berm near the residential side was put in to help with the dust and noise. There is no restoration plan in place yet for when they cease operation, it has been discussed but the plan is still undetermined. The board is requesting to add the dust mitigation plan to the special permit, 10 year permit with a 5 year check in to discuss the restoration plan. They must follow all state, local, and federal regulations. The wheel wash station to be implemented in the special permit. A bond to be in place for the road, which is currently set at \$300,000, adding that DPW reserves the right to increase the bond amount should they see fit. Also, maintain the stakes and surveys if they were to come out of place.

Marie McKinnon of 563 River St. was sworn in. She had a few questions for the applicant and the board. She asked if anyone from the board had visited the site after the replanting were done. The board has not visited the site yet, and in regards to the replanting, that would fall under the purview of the Conservation Commission. The board was just given the information today, and will request the Conservation agent Matt Marro to confirm. M. McKinnon asked if the surveying was done by a licensed professional. The applicant replied yes. Her next question was in regards to the truck increase. In the permit, it states that if there is any detriment to the neighborhood or environment, that is a valid reason to not grant an increase. With the landfill, the water treatment, and this operation, M. McKinnon stated the traffic is heavy and makes it difficult to walk with pets or children. By granting the increase, it only

makes it more hazardous to be living in the neighborhood. It was clarified that the capping project, that abuts the mining operation on parcel 108 will not expand/extend any further than it currently is. The landfill project is allowed 75 trucks a day to come in, the goal for the increase in the mining operation from 64 to 75 is to mirror those trucks coming in, allowing them to utilize every truck coming in and out.

Frank McKinnon of River St. was sworn in. He stated he works in this industry in a working quarry, and had a question for the applicant. He questioned if they plan to open up the business for the public or other businesses, further increasing the number of trucks coming in and out. In the special permit, it is clarified to only allow their business and subcontractors trucks in and out, no other personal or commercial trucks are allowed under the current permit.

Jody Mendoza was sworn in. She questioned the special permit not including an operating schedule at the time of application, along with a plot plan showing which 5 acres were being worked on, as only 5 acres are allowed at one time. Nicole Roberts clarified that the zoning bylaw language applies to any new special permits going forward, as those bylaws were not in place at the time the special permit was granted.

Jennifer and Frank Allen of 582 River St (Lots 3,4,5). were sworn in. Jennifer questioned why when French took over from the original owner, it was not considered transferring and would void the special permit. Cindy Carvill explained that the special permit goes with the business, the business did not change, and since French purchased the business from the original owner, they technically did not transfer- as in another business taking over the special permit, French bought 580 LLC and took over their business. It was reiterated again that this was a pre-existing non-conforming lot, therefore does not apply to the current zoning bylaws that were implemented later. ABC recycling was added to the special permit in 1999.

Mark Goguen was sworn in. He questioned the use of the bond and requested it be clarified to be used solely for the improvement of the road. Jarrett replied that at the conclusion of the landfill project, they have to go out and have a professional survey crew come out and retest the roadway to see if there's any damage. Nicole Roberts confirmed that the bond can not be spent for something else by the town, it is held by the treasurer collector and is to be used for its intended purpose. Mark brought up the Master Plan that was presented in 2020. The boards were all in favor of the Master Plan, and asked the Zoning members to review it and take that into consideration. He asked the board to reconsider the maximum number of trucks allowed and to consider having a yearly maximum.

David Watkins was sworn in. He wanted to remind the board that the reason the residents on River St. were attending these hearings are due to the conditions along the way have not been met. The issues that have been brought up and added as conditions, should have been followed through from the start. He mentioned trucks idling on Route 140 early in the morning, disturbing residents. Nicole clarified that in the conditions, it is stated that the trucks cannot idle on 140 and the hours of operation are 7:30AM-4:30PM. If there are any trucks from this business idling on the road, please let the town know so they can address and enforce it.

Richie from River St. was sworn in. He wanted clarification on the number of trucks allowed per day, stating there are two separate businesses and if they were to sell their business, they could technically allow an additional 75 trucks per day. The board clarified that the language in the condition allows a total of 75 trucks per day on this property, between both operations. The board can clarify in the conditions to

limit the total number of trucks in/out in the driveway, to eliminate any confusion between the two businesses, especially if one business is sold in the future to a different company with their own trucks.

James Agnelli of River St. was sworn in. He lives across from the entrance to the site and has lived there for several years. He wanted to address the noise pollution. He stated he hears tailgates smashing, milling stones, smashing rocks, and machinery all day long.

Denise Tocci was sworn in. She questioned why the company has not followed what was originally put in the permit to begin with, such as the buffers, trees, etc. C. Carvill stated the permit was renewed in 2008, and between 2008 and 2024 there has not been one written complaint to the Zoning enforcement officer. Jarrett added the complaints started in mid February of 2024 once the public was aware of the special permit renewal.

The board agreed to add revisiting the conditions in 1 year. Jarrett requested to entertain shifting the hours of operations from 7AM to 3:30PM Monday-Friday. In the event of an emergency, the business needs to notify the police and DPW.

Rob Bushay motioned to close the hearing, 2nd by Renee Tambling.

Bushay (Y) Miller (Y) Tambling (Y) Carvill (Y) 4-0

Nicole reviewed the discussed conditions; submit dust mitigation plan to the ZBA, hours of operation will be 7AM-3:30PM Monday-Friday, maintain the 100 ft buffer zone, in the event that any stakes are disturbed they will redo the survey by the licensed surveyor, the special permit will be renewed for 10 years and they are to report to the ZBA on or before 5 years with the status of a restoration plan, now that the driveway is paved, there is to be a different evaluation done as far as the dust levels, if street sweeping and wheel washing is still necessary or not, ZBA reserves the right to bring the applicant back in if it is determined certain conditions are not being met or they receive more complaints, the bond needs to remain in place and the DPW has the right to raise the bond amount if they see fit, abide by all state, local, and federal rules and regulations, no trucks are to be idling on River St or any residential St. in Winchendon, ZBA will conduct an administrative review and revisit the conditions in 1 year at a regular meeting to make sure they are abiding all the rules and regulations, no more than 75 trucks per day for any purpose entering the property known as 580 River St. LLC, owned by W.L. French.

R. Bushay motioned to approve the special permit renewal and increase of trucks with the conditions stated, for a period of 10 years, with an administrative review in 5 years, 2nd by Christine Miller.

Bushay (Y) Miller (Y) Tambling (Y) Carvill (Y) 4-0

Adjourn: R. Bushay motioned to adjourn, 2nd by R. Stancombe.

Bushay (Y) Miller (Y) Stancombe (Y) Tambling (Y) Carvill (Y) 5-0

The meeting was adjourned at 10:44PM.

Respectfully submitted:

Brianna Lindahl

Brianna Lindahl, Zoning Board of Appeals Recording Secretary

Cynthia Carvill, Chair

Rob Bushay

Christine Miller

Richard Stancombe

Renee Tambling